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July 18, 2016

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Jeff S. Jordan  
Office of General Counsel  
999 E Street, NW  
Washington, DC 20436

Re: MUR 7067  
Representative Patrick Murphy, Thomas Murphy, Jr., and Coastal Construction  
Group of South Florida, Inc.

Dear Mr. Jordan:

We write as counsel to Representative Patrick Murphy, Thomas Murphy Jr., and Coastal Construction Group of South Florida, Inc. (collectively, "Respondents"), in response to the complaint filed by the Foundation for Accountability and Civic Trust ("FACT") on May 18, 2016 (the "Complaint"). The Complaint falsely alleges that Representative Murphy has engaged in impermissible coordination with Floridians for a Strong Middle Class ("Floridians"), an independent expenditure-only committee. The Complaint fails to provide any credible support for this claim, and fails to state any facts that, if true, would constitute a violation of the Federal Election Campaign Act of 1971, as amended (the "Act").

The Commission may find "reason to believe" only if a complaint sets forth sufficient facts, which if proven true, would constitute a violation of the Act.<sup>1</sup> Moreover, unwarranted legal conclusions from asserted facts or mere speculation will not be accepted as true, and provide no independent basis for investigation.<sup>2</sup> Here, the Complaint's only support for its speculative conclusion that Representative Murphy must have engaged in impermissible coordination with Floridians is that Floridians has received financial support from a person – Thomas Murphy Jr. – and a business – Coastal Construction Group of South Florida, Inc. – related to Representative Murphy. However, this fact plainly does not amount to a violation of the law. Moreover, not only does the Complaint fail to allege facts that would constitute coordination, but no actual coordination has occurred between Respondents and Floridians.<sup>3</sup> The Commission should therefore find no reason to believe that Respondents violated the Act, and should dismiss the matter immediately.

<sup>1</sup> 11 C.F.R. § 111.4(a), (d); MUR 4960, Statement of Reasons of Commissioners Mason, Sandstrom, Smith and Thomas (Dec. 21, 2001).

<sup>2</sup> *Id.*

<sup>3</sup> See Exhibit A (Thomas Murphy Jr. Declaration).

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COUNSEL

## I. FACTUAL BACKGROUND

Representative Murphy is a member of the U.S. House of Representatives and a candidate for U.S. Senate in Florida. Representative Murphy's father, Thomas Murphy, Jr., is the Chairman and Chief Executive Officer of Coastal Construction Group of South Florida, Inc. ("Coastal"), and Representative Murphy himself is a shareholder in Coastal. Both Thomas Murphy Jr. and Coastal have made political contributions to Floridians, an independent expenditure-only committee that was formed and operates completely separately from Representative Murphy or his campaign committee. Based on one fact – that Thomas Murphy Jr. and Coastal have made political contributions to Floridians – the Complaint concludes that unlawful coordination "appears" to have occurred between Representative Murphy and Floridians.<sup>4</sup>

## II. LEGAL ANALYSIS

The Commission will not find a reason to believe that a violation of the Act has occurred based on "mere speculation."<sup>5</sup> Rather, it looks to whether the Complaint presents "facts which describe a violation of a statute or regulation over which the commission has jurisdiction."<sup>6</sup> Here, the alleged violation is that Representative Murphy has engaged in impermissible coordination with Floridians, an independent expenditure-only committee. To determine whether a communication is coordinated, Commission regulations provide the following three-pronged test: (1) the communication must be paid for by a person other than a Federal candidate, a candidate's authorized committee, or political party committee, or any agent of the foregoing; (2) one or more of the four content standards set forth in 11 C.F.R. § 109.21(c) must be satisfied; and (3) one or more of the six conduct standards set forth in 11 C.F.R. § 109.21(d) must be satisfied.<sup>7</sup>

The Complaint does not allege facts showing that any of the three prongs of the coordination test have been met, and as such, fails to allege facts which, if true, would constitute a violation of the Act. The Complaint does not identify any specific communication sponsored by Floridians that satisfies the content or payment prong of the coordination test. Moreover, even if the Complaint did identify such a communication, and it does not, the allegations made in the Complaint plainly do not satisfy the conduct prong. The Complaint appears to allege that the fact that Thomas Murphy, Jr. and Coastal have made political contributions to Floridians means that Representative Murphy has engaged in conduct that would satisfy the conduct prong of the

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<sup>4</sup> See Compl. at 1.

<sup>5</sup> 11 C.F.R. § 111.4(a), (d); MUR 4960, Statement of Reasons of Commissioners Mason, Sandstrom, Smith and Thomas (Dec. 21, 2001).

<sup>6</sup> See 11 C.F.R. § 111.4(d)(3).

<sup>7</sup> *Id.* § 109.21(a).

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coordination test. However, the fact that a person and a business entity related to Representative Murphy have made contributions to an independent expenditure-only committee that supports Representative Murphy's candidacy simply does not amount to prohibited conduct under the coordination test.<sup>8</sup> The conduct prong is only satisfied if a communication that is paid for by a non-party, non-candidate sponsor (1) is created, produced, or distributed at the request or suggestion of a candidate or candidate's agent, or is created, produced, or distributed at the suggestion of the person paying for the communication, and the candidate or candidate's agent assents to the suggestion; (2) is the result of material involvement by the candidate or candidate's agent in decisions regarding six specifically delineated aspects of the communication; (3) is created, produced, or distributed after one or more substantial discussions about the communication between the payor and the candidate or candidate's agent if those discussions satisfy certain requirements; (4) is created by a common vendor that uses or conveys certain material information in the creation, production, or distribution of the communication; (5) is sponsored by person, or by the employer of a person, who is a former employee or independent contractor of the candidate or candidate's agent and that person conveys certain material information in the creation, production, or distribution of the communication; or (6) disseminates, distributes, or republishes campaign material.<sup>9</sup> The Complaint fails to allege that any prohibited conduct has taken place.

What is more, the Complaint's unsubstantiated allegation of coordination is patently false. Respondents have not engaged in any prohibited coordination with Floridians.<sup>10</sup> Indeed, Floridians has yet to even sponsor any communications in support of Representative Murphy's candidacy, and thus could not have been sponsored a "coordinated communication" as defined by the Act or Commission regulations.<sup>11</sup> The Complaint merely speculates that the coordination standard must have been met<sup>12</sup> and asks the Commission to accept this speculation as fact. However, the Complaint's unsupported allegation is precisely the sort of "mere speculation" that the Commission has declared warrants immediate dismissal.

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<sup>8</sup> See, e.g., FEC Matter Under Review 6611, Amended Certification (Jan. 11, 2013) (dismissing complaint alleging that a candidate coordinated with an independent expenditure-only committee that was funded in large part by the candidate's mother absent any specific evidence that the conduct prong was satisfied).

<sup>9</sup> *Id.* § 109.21.

<sup>10</sup> See Exhibit A, ¶ 4.

<sup>11</sup> See 11 C.F.R. § 109.21.

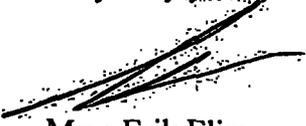
<sup>12</sup> The Complaint uses language that makes it clear that its allegations are completely speculative. See Compl. at 1-2 ("...appears to be unlawful coordination..."); ("indicative of coordination"); ("may have violated" the Act); ("simply unrealistic to believe" that no coordination occurred); ("it appears that").

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### III. CONCLUSION

Because the Complaint has not alleged facts that provide a sufficient basis for the Commission to find "reason to believe" that the Act or Commission regulations have been violated, the Commission must reject the Complaint's request for an investigation. It should instead immediately dismiss the Complaint and close the file.

Very truly yours,



Marc Erik Elias  
Graham M. Wilson  
Jacquelyn Lopez  
Counsel to Respondents

17044411374

**BEFORE THE  
FEDERAL ELECTION COMMISSION**

IN RE

Patrick Murphy, *et al.*

MUR 7067

**Declaration of Thomas Murphy Jr.**

1. I am the Chairman and Chief Executive Officer of Coastal Construction Group of South Florida, Inc. ("Coastal").
2. Representative Patrick Murphy is currently a member of the U.S. House of Representatives and a candidate for U.S. Senate in Florida. I am Representative Murphy's father.
3. I have contributed my personal funds to Floridians for a Strong Middle Class ("Floridians"), an independent expenditure-only committee, and directed Coastal to make a contribution to Floridians.
4. While I have made contributions to Floridians, both from my personal funds and from Coastal, I have not had any other involvement with Floridians regarding any communications or "independent expenditures" that they have made or may or may not make in the future. I have not: requested, suggested, or assented to a suggestion that Floridians create, produce or distribute any communication; had any material involvement in any decisions by Floridians regarding any of their communications; had any substantial discussion with Floridians regarding the creation, production, or distribution of any of their communications; or conveyed to Floridians any material information regarding Representative Murphy's or his campaign's plans, projects, strategies or needs.
5. I alone made the decision to contribute my personal funds to Floridians on my own behalf, independent of and without consultation with, or the knowledge of, Representative Murphy or his campaign committee. I was not solicited to make the contribution by Representative Murphy, his campaign committee, or agents thereof.
6. I made the decision to make a contribution from Coastal to Floridians in my capacity as Chairman and CEO of Coastal, independent of and without consultation with, or the knowledge of, Representative Murphy or his campaign committee. Neither I nor anyone else at Coastal was solicited to make the contribution to Floridians by Representative Murphy, his campaign committee, or agents thereof.
7. I am over 21 years of age, of sound mind, and I have personal knowledge of the facts stated above.

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I declare under penalty of perjury that this declaration is true and correct.

*T. P. Jr.*

\_\_\_\_\_  
Thomas Murphy Jr.

*7/18/2016*

\_\_\_\_\_  
Date

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